

# MEMO

**California Energy Commission  
1516 Ninth Street  
Sacramento, CA 95814**

**June 1<sup>st</sup> 2004**

## **Response to Proposed Legislation for Approval of Technical Assistance Providers and Certifiers for the California Climate Action Registry**

**Bill Reynolds SGS North America Inc.**

To whom it may concern,

I would like to bring to attention a number of issues with respect to the proposed legislation. In my opinion, these are of sufficient concern to merit postponing finalization of the legislation until amendments and alternatives have been adequately explored. My concerns relate to the Conflict of Interest evaluations both applicant and in providing service to Registry participants.

As proposed, the legislation will tend to exclude large companies from certain verification engagements, whilst the other criteria will tend to exclude small companies. COI evaluation requirements will be prohibitively expensive and because of the value of the verification engagement, if we have provided ISO14001 certification to the client, we would be conflicted out - yet, these are exactly the kind of commercial relations that should be exploited to make it cheaper and easier for clients to develop their GHG reporting systems. A large company such as SGS is highly likely to have provided services to another large company and while no consultancy may have been undertaken, this constitutes a significant risk under the proposed legislation. This issue is further exacerbated by attaching importance to the dollar value of previous services to the client. Yet if the previous services were non-consultancy verification work, the dollar amount should be insignificant.

I would agree that a robust accreditation evaluation of certifiers is important for the validity of the program. Having gone through this evaluation, and the costs incurred, the level of information required and the accreditation requirements are fair, and in keeping with the requirements of other verification programs. However, in other accredited programs, we are required to identify if there is a conflict of interest and if so, manage it. The emphasis is placed on the applicant certifier to demonstrate that it considers COI and has an internal process for mitigating any risks. This is an alternative approach that could be adopted by the CEC in its accreditation process. Does the applicant certifier have a documented conflict of interest policy and evaluation methodology? If so, can the level of rigor adopted in individual COI evaluations be reduced? Would it be appropriate for

the CEC or an appointed agency to provide ongoing monitoring of the certifiers COI evaluation system, rather than evaluation of individual cases? As the membership increases this might provide a more cost-effective approach.

There is a risk that if we held a large contract with a participant, we might be more inclined to find in their favor. If the contracts are for the provision of independent services (e.g. ISO 14001, testing etc) then, I would argue, there is no conflict. If the contract includes provision of consulting services then that should constitute a conflict. This would either be managed by shifting the contract to another legal entity or declining the work

SGS is a certification, verification and testing company, whose existence and viability relies on our ability to demonstrate and maintain independent third party status, inclusive of COI. Our articles of association also state that we are an independent verification and testing company and undertake no form of consultancy. Senior management are debarred from ownership in and management of client entities. Given this, SGS feels it is entirely appropriate for a reduced COI evaluation effort at the individual participant level. The fact that SGS recorded a “medium risk” evaluation for a participant in the Registry would suggest that there is an issue, given that the “conflicting” service provision was in nature and staffing distinct from services to the CCAR, was non-consultancy and was performed by an entirely separate division of SGS North America.

It might be valuable to consider placing more emphasis on the individuals involved in a certification activity during the Participant COI . Within SGS, all employees and sub-contractors are required to commit to a Code of Ethics that embodies the concept of the provision of independent services. Employees are also required to declare whether they have worked for a client in the past. Sub-contractors are required to complete a COI declaration that they have not worked with the client. This covers team members and the independent reviewer. If no-one on the team has worked for them the participant, this should sufficiently address the COI at a personal level.